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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Pursuant to the remand under 37 CFR 41.50(a)(1) by the Board of Patent Appeals and Interferences on 02/25/2008 for further consideration of a rejection, a supplemental Examiner's Answer under 37 CFR 41.50(a)(2) is set forth below:

In the examiner's answer dated 9/5/06 the examiner had incorrectly indicated the appellant's grounds of rejection in appeal brief dated 6/08/06 to be correct. The examiner stands corrected upon being notified by the board in the remand.

Arguments presented by appellant with respect to rejected claims 37-38, 44-46 for the first time in the reply brief dated 11/03/2006 are being responded herewith.

The arguments on page 5 section (III), page 6 section (IV) and page 7 section (V) of reply brief (filed 11/03/2006) are not persuasive.

Response to appellant's argument paragraph (III):

The appellant is in error for treating Tarantino as primary reference in the argument. The examiner has used Tarantino as secondary reference to provide only those limitations that are missing from Simunek as primary reference. Referring to final office action dated 9/5/06 claims 37-38 are rejected under 35 USC 103 (a) as being obvious over Simunek (primary reference) in view of Tarantino (secondary reference). The rejections are further explained below:

Examiner takes the position that Simunek as primary reference clearly provides all limitations those are underlined in appellant's argument paragraphs. The applicant is wrongly looking for these limitations in Tarantino.

Simunek teaches a game display (20), an operating system (Fig.1), processor (16), memory (14), video section (18), pay table (2:52-54), wagering input device (bet1 button), payout device (win button), player selecting game element locations (3:46-47) less than all locations, each location capable of displaying reel like configuration with plurality of indicia as randomly selected (3:1-6), determining payout on the basis of winning condition and matching number of locations (4:1-34), paying increasing award units (2:55-64), a hierarchy of symbols (4:8-15), matching subsets of indicia (4:1-5) that is also well known in the slot machine industry.

Applicant might argue that all selected locations do not display reel action due to random selection of locations by the machine immediately after a player has made selection. Examiner takes the position that due to the fact that the machine is capable of selecting randomly "some or all" locations (3:52) indicates at possibility of selecting "all" spots by the machine. In such case all player-selected locations will turn into reel like locations displaying any one of all symbols on the reel.

One of ordinary skill in art at the time the invention was made would have suggested spinning all player-selected locations simplifying the game.

Simunek teaches all limitations except that it does not clearly express a spatial arrangement of winning symbols.

Tarantino teaches a spatial arrangement of vertical, horizontal and diagonal as winning conditions. Winning conditions are determined by gaming institutions and payouts are determined according to their revenue situations (Simunek 4:23-26). In order to attract players gaming houses present various winning conditions/combinations while also keeping the game revenue in focus. Slot machines are well known to pay for matching horizontal lines. One of ordinary skill in art at the time the invention was made would have suggested various conditions and combinations of matching symbols and arrangements to attract players and to keep the game revenue flowing.

With respect to examiner's statement about appellant's arguments with respect to claims 25, 29, 39, 47 and 50 being moot stands corrected as indicated by appellant and subsequently in the remand. The statement should be read as "There is no record of independent claims 25, 29, 37, 47, and 50 rejected over Simunek in view of Tarantino." Examiner takes the position that while Simunek does not explicitly teach limitations of Claims 37 and 38 (therefore unable to use 35 USC 102 b), however it is inherently possible for a player can select and win spots in a horizontal, vertical or diagonal arrangements, therefore rejection was made under 35 USC 103 (a) . In the conclusion the examiner treated claims 37-38 separately under 35 USC 103 (a) over Simunek in view of Tarantino because Simunek did not expressly teach the winning conditions "being random selection of spots in horizontal, vertical or diagonal lines" but same was provided by Tarantino.

Response to appellant's argument paragraph (IV):

The appellant is in error for treating Tarantino as primary reference in the argument. The examiner has used Tarantino as secondary reference to provide only those limitations that are missing from Simunek as primary reference. Referring to final office action dated 9/5/06 claims 44-46 are rejected under 35 USC 103 (a) as being obvious over Simunek (primary reference) in view of Tarantino (secondary reference). The rejections are further explained below:

Examiner takes the position that Simunek as primary reference clearly provides all limitations those are underlined in appellant's argument paragraphs. The applicant is wrongly looking for these limitations in Tarantino.

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With respect to claims 44-46 limitations selecting larger number of spots/elements and receiving increasing number of winning, Simunek clearly teaches players selecting up to ten spots and winning increasing payout (1:6-55). However the examiner further treated claims 44-46 under 35 USC 103 (a) should the applicant argue that Simunek did not explicitly indicate multiple payout tables.

Tarantino teaches allowing players to select a larger number of locations for a larger betting amount (9:40-55). It can be readily understood that a larger selection relates to a larger reward (13/1-5). Accordingly in order to make the game attractive to players it would have been obvious to allow larger number of betting locations. One of ordinary skills in art at the time the invention was made would have suggested providing a larger aggregate number of locations for a larger value award.

Response to appellant's argument paragraph (V).

(4) With respect to paragraph (V) the appellant is again in error, as there is no record of independent claims 25, 29, 39, 47, and 50 rejected over Simunek in view of Tarantino." The argument is moot. Appellant is also in error in indicating claims 25-48 and 50-52 as dependent claims. However the examiner has already explained rejections of claims 37-38, and 44-46 as above. Examiner's motivation in rejecting claims 37, 38, 44, 45, 46 is based on structure means that are commonly known in the gaming art area and can be used with predictable results. For example: winning horizontal, vertical or diagonal lines for outcomes (claims 37-38) and winning larger payout for larger number of matching elements are common features in the gaming art.

The appellant must within **TWO MONTHS** from the date of the supplemental examiner's answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the rejection for which the Board has remanded the proceeding:

(1) **Reopen prosecution.** Request that prosecution be reopened before the examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit, or other evidence. Any amendment, affidavit, or other evidence must be relevant to the issues set forth in the remand or raised in the supplemental examiner's answer. Any request that prosecution be reopened will be treated as a request to withdraw the appeal. See 37 CFR 41.50(a)(2)(i).

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. If such a reply brief is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened under 37 CFR 41.50(a)(2)(i). See 37 CFR 41.50(a)(2)(ii).

Extensions of time under 37 CFR 1.136(a) are not applicable to the **TWO MONTH** time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

/Vishu K Mendiratta/ (Examiner)

/Gene Kim/

Supervisory Patent Examiner, Art Unit 3711

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3715